

Exhibit 404

United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al.
v. Dey, Inc., et al., Civil Action No. 05-11084-PBS

**Exhibit to the August 28, 2009 Declaration of Sarah L. Reid in Support
of Dey's Opposition to Plaintiffs' Motion for Partial Summary Judgment**

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 -----X MDL NO. 1456

4 IN RE: PHARMACEUTICAL INDUSTRY : CIVIL ACTION:

5 AVERAGE WHOLESALE PRICE LITIGATION : 01-CV-12257-PBS

6 -----X

7 THIS DOCUMENT RELATES TO: :

8 U.S. ex rel. Ven-A-Care of the : CIVIL ACTION:

9 Florida Keys, Inc. v. Abbott : 06-CV-11337-PBS

10 Laboratories, Inc. :

11 -----X

12

13 IN THE CIRCUIT COURT OF

14 MONTGOMERY COUNTY, ALABAMA

15 -----X

16 STATE OF ALABAMA, : CASE NO.

17 Plaintiff, : CV-05-219

18 v. :

19 ABBOTT LABORATORIES, INC., : JUDGE

20 et al., : CHARLES PRICE

21 Defendants. :

22 -----X

1 Q. Because I'll tell you what I'm trying to
2 figure out, and you can -- maybe you can help me.
3 I'm trying to figure out whether the portions of
4 the Office of Inspector General that did these
5 reports and came up with these conclusions and
6 studied these acquisition costs were running on
7 some sort of a parallel track to the studies that
8 you were doing or whether the two of you
9 communicated at all. How would I figure that out?

10 A. I guess I -- if people could recall and
11 tell you. If there are notes in the work paper
12 file of meetings.

13 Q. Okay. And, admittedly, this is about
14 eleven years ago. Fair to say that your memory
15 would have been better ten years ago than it is
16 today?

17 MR. NEAL: Objection as to form.

18 BY MR. COOK:

19 Q. It's not a trick question. I'm really
20 not trying to trick you. Let me rephrase that.

21 If I had asked you this question in 1997, is
22 there a better chance that you would remember it

1 than if I ask you today, eleven years later?

2 MR. NEAL: The same objection.

3 THE WITNESS: I would think there would
4 be a better chance.

5 BY MR. COOK:

6 Q. Not a certainty by any means, right?

7 A. No.

8 Q. But your memory fades over time,
9 correct, as does everybody's?

10 A. I believe my memory fades over time.

11 Q. And is it fair to say that your memory
12 has faded over time with respect to the reports
13 that you conducted as part of the Office of
14 Inspector General in 1996?

15 A. Yes.

16 Q. I think we can be very quick on Exhibit
17 Abbott 084, given your answers, but we'll try.
18 Could you take a look at it for me and tell me if
19 you recognize it.

20 A. I recognize it as a -- what looks like
21 an audit memorandum report, a report.

22 Q. Do you recall reading this report?